

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-10493 GAO

MANUEL ROSA
Plaintiff,

v.

CITY OF BOSTON,
Defendant

**PLAINTIFF MANUEL ROSA'S ANSWERS TO THE DEFENDANT
CITY OF BOSTON'S FIRST SET OF INTERROGATORIES**

Interrogatory No. 1

State your full name, address, marital status, date of birth, and social security number.

Response No. 1

Manuel Antonio Rodriguez, 523 Geneva Avenue, Dorchester, MA 02122,
11/2/61, 011-56-1168.

Interrogatory No. 2

Describe your employment history from the age of eighteen, including:

- (a) each and every job;
- (b) name and address of the company for each such job;
- (c) time period you worked for the company for each such job; and
- (d) the name of your supervisor at each such job.

Response No. 2

1986 - 1988	Security Officer, Delta Co. and later known as Public Cover Co. 1 Federal Street, Boston, MA - Supervisor(s) first names were Steve and Thomas.
1988	Candy maker, Chocolate Candy Factory, Lechmere Station, Cambridge, MA - Supervisor(s) I do not remember their names.

1997-98	Dishwasher, Mass. College of Arts, Huntington Avenue, Boston, MA - Supervisor(s) I do not remember their names.
1988-1998	Head Dishwasher, Summer Set Club, 42 Beacon Street, Boston, MA - Supervisor, Dennis Mitchell.
1998-1999	Cleaner, MBTA , Ashmont Train Station, Dorchester, MA Supervisor(s) I do not remember their names.
1999-2003	Food Delivery, The East Coast Restaurant, 1456 Dorchester Avenue, Dorchester, MA - Supervisor, Hung Chu Chan.
2003 - 2005	Delivery, warehouse work, M Nail Supply Co. 1458 Dorchester Avenue, Dorchester, MA - Supervisor Mr. Hendry.

Interrogatory No. 3

Have you ever been convicted of a crime? If yes, please state:

- (a) the date of the conviction;
- (b) the crime of which you were convicted;
- (c) the court and docket number of each criminal case.

Response No. 3

No.

Interrogatory No. 4

Describe in detail everything that happened on March 10, 1997 and March 11, 1997, including how you came to be arrested up to and including when you were released from custody.

Response No. 4

On March 10, 1997 at approximately 2 p.m, I was in my house getting ready to go to work at Mass. College of Arts when two Boston Police Officers entered my house and asked me for identification. I was then arrested and told that "I was selling drugs in my neighborhood".

I was taken out of my house in handcuffs in front of members of my Family and my neighbors, and placed in a marked police cruiser. I was taken to an area police station and stripped searched from head to toe.

During the booking process I witnessed a Boston Police Officer exchange my photograph with that of the individual who had been previously arrested for these charges. I saw him change the photographs on the computer screen. I asked him why he was doing this and he did not answer me.

I spent the night in the police lockup and then I taken to the Suffolk Superior Courthouse, Clerk Magistrate's Session. At which time the Court determined that the individual before the Court [myself] was not the individual who was the subject of the indictments and ordered my immediate discharge and release. I was eventually given a letter from then Suffolk Superior Court Chief Probation Officer, John F. Cremens, Jr., who told me to keep this letter with you at all times. The letter from the Court indicates that I am not the person who is the subject of the indictments.

Interrogatory No. 5

Describe in detail everything that happened on March 23, 1997, including how you came to be arrested up to and including when you were released from custody.

Response No. 5

On March 23, 1997, I was pulled over by a Boston Police Officer after I had made an apparent illegal u-turn. After I produced my license and registration, he told me I was under arrest for a warrant. I was again handcuffed, I was with my girlfriend at the time. I showed the Officer the letter from Court, he said it did not matter, he said " you could have written that letter yourself ", I said I did not. I said call the Court, he refused.

I was held in police lock up until the next day [March 24, 1997] and then again transported to Suffolk Superior Court. The Court appeared to be 'amazed' that I was again arrested and brought back to Court. The Court then ordered the District Attorney's Office to inform the Boston Police Department to immediately correct their records. I was released from the Courthouse again with an apology from the Clerk Magistrate, I have learned that his name is Gary Wilson.

Interrogatory No. 6

Describe in detail everything that happened on January 17, 2001 and January 18, 2001, including how you came to be arrested up to and including when you were released from custody.

Response No. 6

On January 17, 2001, I was returning from delivering food for my employer the East Coast Restaurant, when I was approached by two Boston Police Officers while stopping in front of my house to get a soda drink. They asked me my name and then said I was under arrest. I of course told them that I was not the person they wanted, I showed them the two letters from Court, it did not matter. I asked them to please call the Court or someone, they of course refused, because it did not apparently matter. I was again arrested at my house, put in handcuffs in front of some family members, friends and neighbors. I do not remember exactly who was there from my Family or friends, I just remember a lot of faces of people I knew and who knew me.

I spent another night in police lock up and again brought to the Suffolk Superior Court on January 18, 2001. I went before Clerk-Magistrate Gary Wilson again who looked at me with what appeared to be true disbelief. He immediately appointed Attorney Arthur L. Kelly to help me and again ordered the District Attorney's Office to instruct the Boston Police to remove 'my warrant' from their records. I am again released and discharged from custody.

On February 21, 2001, a hearing was held before Superior Court Judge Carol Ball who ordered the Boston Police and the Massachusetts Board of Probation to expunge any and all records arising from the arrest of Manuel Rosa with regard to the indictments.

Interrogatory No. 7

Describe in detail any other instances where you claim you were falsely arrested by the Boston Police Department including how you came to be arrested up to and including when you were released from custody.

Response No. 7

Sometime between March 23, 1997 and March 12, 1998, I was again arrested by members of the Boston Police department with regard to these indictments. I again spent the night in the police lock up. I believe I was transported the next morning to the Dorchester District Court who apparently contacted Suffolk Superior Court. I was released from custody after it was determined that I was not the individual. I do not remember the date of this arrest, except that I believe it was around March 17, 1998.

I remember however that I reported to Suffolk Superior Court First Assistant Chief Probation Officer Sandy Stillwell on March 18, 1998, who wrote me another letter indicating that I was not the person wanted in the indictments.

Overall, I was arrested seven (7) times between March 10, 1997 and January 17, 2001 by members of the Boston Police Department. Three (3) of those times resulted in my release from the area police station. I believe it was those times that the person who was initially arrested and who used my name, [his booking photograph was still in the computer], so I was let go.

Interrogatory No. 8

Describe all of the injuries and complaints of any nature whatsoever (whether objective or subjective) as a result of these incidents or which you or your doctors are aware of or suspect, including but not limited to the following specific details.

- (a) List and describe each specific injury, giving the exact location within or upon your body of all injuries, and the nature of your complaint (whether physical, dental, emotional, nervous, mental or psychological).
- (b) If you have completely recovered from each such injury and complaint, state the date you recovered from such injury or complaint.
- (c) List separately all of your present disabilities and complaints (whether objective or subjective), the frequency and duration of your complaints of pain, etc., the location of and degree of any limitations of motion you now have, and a detailed description of any scars you have at the present time, which you attribute to the incident.
- (d) Separately list and describe each of your claimed permanent disabilities.
- (e) If you claim any permanent scars, disfigurement or other cosmetic defect, present or potential, as a result of the incident, describe in detail the area of the body affected, the approximate dimension of the area, and the name and address of any person who has taken any photographs showing injury and when taken.
- (f) If as a result of any injury in the incident sued upon, any doctor gave you a temporary or permanent disability rating, give the name and address of the doctor, what the rating covers, when the rating was made, the percentage of rating and the rate therefor.

Response No. 8

I was not physically harmed during any of my arrests and confinements. I have not treated with any doctors and I believe I do not have any permanent disabilities from these events. However, I have been hurt emotionally. I still fear that I may again be arrested by the police. I get nervous when I see a police car, I do not know if I will always feel this way.

Interrogatory No. 9

If as a result of any injuries sustained in the incidents you were unable to perform any of your normal and usual functions, duties or activities of whatever nature at any time since the incident (which you were able to perform before such incident), state such function, duty or activity you were unable to perform, and also separately state what functions, duties or activities, if any, you are still unable to perform, and why. Your answer should contain but not be limited to, the following specific information:

- (a) In connection with your work, employment and/or business; and

- (b) In activities other than your employment or business, describing in detail the type of such activity (social, recreational) and the extent of curtailment, limitation or restriction.

Response No. 9

As a result of my arrest on March 10, 1997, I was terminated from my job at the Mass. College of Art. It became difficult for me to obtain employment after that arrest. I was without a job for several weeks. As a result of the (7) arrests between March 10, 1997 and January 17, 2001, I have lost wages, [amount is unknown to me] my car was impounded on (2) occasions resulting in fees in excess of \$150.00. I believe my employer(s) did not always believe my story that 'they got the wrong guy, it wasn't me'. During that period of time, I mostly stayed home unless I was working, because I feared being arrested and then spending a night in jail.

Interrogatory No. 10

- (a) Do you, or does anyone on your behalf, contend that as a result of the injuries sustained in the incidents there has been any aggravation of a pre-existing condition (whether a prior illness, disease, injury, or a mental, nervous or psychological condition) your response should include but not be limited to the following specific details:
- (1) the condition which has been aggravated;
 - (2) which of your injuries caused the aggravation;
 - (3) when the aggravation commenced;
 - (4) how long it lasted; and
 - (5) the extent or degree of aggravation.
- (b) If you do so contend, when were you first advised or became aware that such a pre-existing condition existed and when it became aggravated, and by whom, if anyone, were you advised that such a condition pre-existed and had been aggravated? If it is exclusively your own opinion, please so state.

Response No. 10

No.

Interrogatory No. 11

Have you ever had any prior complaints of pain, discomfort, injury or disability before these incidents that were similar to or related to those you experienced after these incidents? If yes, include the following details:

- (a) Enumerate them and give details as to the times, place, duration and cause of the prior similar or related condition(s);
- (b) When and where were you previously treated for such, and give the name and address of doctors, clinics, hospitals, sanitariums and institutions that treated or cared for you.

Response No. 11

No.

Interrogatory No. 12

State between which dates you were confined, it at all, as a result of the injuries you claim you received as a result of the incidents:

- (a) in a hospital and the address;
- (b) confined to your bed at home and the address;
- (c) convalescing at home but not confined to your bed, stating the address where convalescing.

Response No. 12

Not applicable.

Interrogatory No. 13

If you received any medical care or treatment, including psychological treatment, from any doctor, or anyone as a result of injuries received in said incidents, please supply the following details:

- (a) the date you first received such medical care or treatment, and the name and address of the doctor, or other practitioner who treated you and where;
- (b) the name and the address of each such doctor, or other practitioner, indicating his specialty, if any, whom you have seen for medical care or treatment as a result of injuries received in this incident;
- (c) for what injuries or complaints did each doctor, or other practitioner treat or care for you;
- (d) the dates of care or treatment by each such person;
- (e) the treatment given and the treatment by each such person;
- (f) the medication and narcotics prescribed, by whom and for what purpose, where obtained, and the frequency and the period of time from date to date over which taken; and

- (g) the nature, extent and duration of dates of any self administered home care or therapy, and if recommended by any doctor or therapist, give his name and address.

Response No. 13

I have not sought a doctor's care, I did not, and do not, have the money to do so. Perhaps I should have, or should seek some help from a psychiatrist or psychological therapist to help me deal with this fear I still have of being arrested and going back to jail.

Interrogatory No. 14

Were you employed at the time of the incidents and do you claim lost wages as a result of this alleged incidents which are the subject of this lawsuit? If so, state your job title or position, a description of your duties and responsibilities, the name and address of your employer, how long you had been employed in said position, the period of time you were absent from work, the amount of salary lost, and your salary at the time of the incidents.

Response No. 14

Please refer to my response to Interrogatories No. 2 and 9 and incorporate same herein as my response to No. 14.

Interrogatory No. 15

In connection with your claim for medical, dental and other expenses for which you have received bills, please provide the following information about these bills: the amount of each bill, the date thereof, the items charged, the dates on which services were rendered, and the name and address of the person or firm that rendered or supplied the same (itemized bills may be attached to supply portions of your answers in detail).

Response No. 15

Not applicable.

Interrogatory No. 16

In connection with your claim for any future medical and dental expenses and care, based upon your best information and belief or based upon what you can ascertain, describe in detail the duration of such future medical and dental care, the nature of each item and what it will be for, by whom it is to be rendered if now known, and the estimated cost thereof by each such person or institution.

Response No. 16.

The Plaintiff OBJECTS to this Interrogatory but will respond as follows:

Since I have not sought medical care, because of a lack of funds to do so, I do not know what the expense(s) would be for 'future medical care'. I am therefore unable to answer this Interrogatory No. 16 properly.

Interrogatory No. 17

Please set forth in full and complete detail the factual basis for your allegations in paragraph 17 of the Complaint that the defendant violated your rights protected under 42 U.S.C. Sec. 1983.

Response No. 17

The Plaintiff OBJECTS to this Interrogatory but will respond as follows:

The Boston Police Department purposely removed the photograph of the individual who was initially arrested, and replaced his photograph with that of mine, which resulted in my further 'arrests' and jail confinement. The Boston Police Department violated my civil rights by these and other actions on several occasions during a 4 year period of time. The Boston Police Department failed to take any action to correct their records despite court order to do so and/or with the knowledge that I was not the person who was the subject of the indictments.

Despite knowing this information as early as March 11, 1997, the Boston Police Department actions or in actions, resulted in the continued violation of my rights, privileges and immunities as set forth under 42 U.S.C. sec. 1983.

Interrogatory No. 18

Please set forth in full and complete detail the factual basis for your allegations in paragraph 20 of the Complaint that the defendant negligently inflicted emotional distress upon you.

Response No. 18

Please refer to my response to Interrogatories No. 5, 6 and 7 and incorporate same herein as my response to No. 18.

Interrogatory No. 19

Please set forth in full and complete detail the factual basis for your allegations in paragraph 22 that the defendant's alleged actions constituted negligence.

Response No. 19

Please refer to my response to Interrogatories No. 5, 6 and 7 and incorporate same herein as my response to No. 19.

Interrogatory No. 20

Did you or anyone on your behalf as a result of the alleged incidents ever make a formal police misconduct complaint and if so please supply the following information:

- (a) Where was the complaint made?
- (b) To whom was it reported?
- (c) When was it reported?
- (d) How was it reported?
- (e) The result of any such complaint and subsequent investigation.

Response No. 20

No.

Interrogatory No. 21

Have you had any conversations or communications regarding the incidents which is the subject of the plaintiff's complaint? If so, please give:

- (a) the names and address of the participants;
- (b) the substance of the communications;
- (c) the time and place of the communications;
- (d) whether the communication was oral or written, and if written the name and address of the custodian.

Response No. 22

I was approached by Channel 7 News WHDH TV reporter, Christina McKenna in February 2001. I was interviewed at my attorney's law office and a TV feature story was broadcast on the evening news. I have had no direct communication with anyone, except my family and my attorney.

Interrogatory No. 22

State the names, addresses, and telephone numbers:

- (a) of all persons who saw or heard, or claim to have seen or heard, or to have any knowledge of any events or happenings which occurred at the time of or at the scene of the incidents referred to in your complaint, or of the events leading up to or immediately after the said incidents. State the relationship of each witness to you;
- (b) of all persons who heard, or claim to have heard, any statements made by any person concerning how the incidents occurred or the person or persons at fault in the occurrences;
- (c) of any persons who claim to have any knowledge concerning the injuries or damages sustained by you or others in the incidents, other than, in your case, any doctors previously identified by you in your answers to the preceding interrogatories;
- (d) of all persons who rendered or offered assistance at the scene of the incident, or who gave their names or assisted you in making any report of the incident.

Response No. 23.

My family members have knowledge of the events between March 10, 1997 and January 17, 2001. My Father - Jose Rosa, Mother - Juano Rosa
523 Geneva Ave., Dorchester, MA 02122
Telephone: (617) 282-5915

Brothers: German Rosa, Juan Rosa, Jesus Rosa
Rafelo Rosa, Josecito Rosa and Roberto Rosa

Sisters: Bruna Rosa, Yolanda Rosa and Maria Rosa

The following is a list of witnesses who may be called at time of trial:

Assistant Trial Magistrate Gary D. Wilson (617) 788-8160
Suffolk County Superior Court
90 Devonshire Street
Boston, MA 02109

Chief Probation Officer Sandy J. Stillwell (617) 788-7255
Suffolk County Superior Court
90 Devonshire Street
Boston, MA 02109

Associate Superior Court Justice Carol Ball
Suffolk County Superior Court
90 Devonshire Street
Boston, MA 02109

Atty. Alicia S. McDonnell (617)-343-4609
Office of the Legal Advisor
Boston Police Department
One Schroeder Plaza
Boston, MA 02120-2014

Christina McKenna (617) 573-8237
Channel 7 News - WHDH
7 Bulfinch Place
Boston, MA 02114

Keeper of Records
Boston Police Department
One Schroeder Plaza
Boston, MA 02120-2014

Keeper of Records
Commissioner of Probation
1 Ashburton Place, 14th Floor
Boston, MA 02108

Interrogatory No. 23

State as to each person identified in your previous answer whether you or your agent(s) have obtained or received from anyone:

- (a) any oral or written statements signed or initiated by any such person; if the answer is Yes, then also state the date and place of each statement obtained, the name, address and phone number of the person who gave the statement, and the person who prepared or obtained each statement, and the name and address of each person who now has custody of each statement;
- (b) any other or additional record, such as a transcription, digest, report, notes or memorandum in any form whatsoever, (where handwritten, typewritten, reporter's notes, recording device or other wise) of any oral statement or statements of digest or summary thereof, made by any person; if the answer is Yes, describe the kind of form of each such record; state the name, address and telephone number of the person who now has custody of each such record;

- (c) any statements, memorandum or recording device obtained from any defendant; if the answer is Yes, please state when, where and by whom it was obtained, and the name and address of the person who obtained it and of the persons who now has custody of same.

Response No. 23

At this time, neither myself nor my attorney are in the possession or any written statements of any witnesses listed in my Response to No. 22.

Interrogatory No. 24

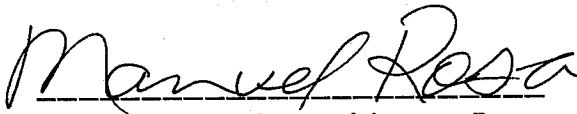
For each expert witness you intend to call at trial:

- (a) state his or her name, address, and telephone number;
- (b) state the substance of that witness' expected testimony;
- (c) state the information considered by the witness in forming his or her opinion;
- (d) describe any exhibits that will be used to summarize or support the witness' opinions;
- (e) state the qualifications of the expert witness, including a list of all publications authored by him or her within the past ten years;
- (f) state the compensation to be paid for the study and testimony of the expert;
- (g) list the cases in which the witness has testified as an expert at trial or by deposition within the past four years, including the complete case caption, docket number, subject of the testimony, and the name, address, and telephone number of counsel for each party.


Response No. 24

At this time I do not intend to call an expert witness at the time of trial.

Signed under the pains and penalties of perjury this 21st day of February, 2005.


Manuel Antonio Rodriguez Rosa

As to Objections:


Arthur L. Kelly, Esq.
Attorney for the Plaintiff

CERTIFICATE OF SERVICE

I, Arthur L. Kelly, hereby certify that I served Plaintiff Manuel Rosa's Answers to the Defendant City of Boston's First Set of Interrogatories, by mailing a copy, postage prepaid, to the following:

Amy E. Ambarik
Assistant Corporation Counsel
City of Boston Law Department
Room 615, City Hall
Boston, MA 02201

Date: 2-28-05


Arthur L. Kelly